

AGREEMENT
FOR THE BILLING OF
SANITARY SEWAGE AND STORMWATER UTILITY SERVICE CHARGES
BETWEEN
MIAMI-DADE COUNTY
AND
THE CITY OF CORAL GABLES

THIS AGREEMENT, entered into this ____ day of _____, 2011, by and between the CITY OF CORAL GABLES, FLORIDA, a municipal corporation of the State of Florida (the "CITY"), and MIAMI-DADE COUNTY, a political subdivision of the State of Florida (the "COUNTY").

W I T N E S S E T H:

WHEREAS, the CITY and Consumers Water Company (the "Company") entered into a Sewer Service Charge Collection Agreement dated March 4, 1954; and

WHEREAS, the COUNTY is the successor to the Company and has assumed all of the obligations, rights and interest of the Company; and

WHEREAS, the COUNTY, through its Miami-Dade Water and Sewer Department (the "Department" or "WASD"), operates the water utility system within the CITY and in unincorporated areas of the County; and

WHEREAS, all water users within the corporate limits of the CITY are customers of the Department; and

WHEREAS, the CITY is exclusively responsible to operate and maintain the sanitary sewage and stormwater utility systems within the CITY boundaries excluding the sanitary sewage systems generally located in the Kings Bay and Deering Bay areas which are, pursuant to County Ordinance No. 89-15, operated and maintained by the COUNTY, and

WHEREAS, the COUNTY has been administering, billing and collecting the sanitary sewage and stormwater utility service charges simultaneously for the CITY with the issuance of the COUNTY'S bills for water service; and

WHEREAS, the CITY desires the COUNTY to continue to administer the billing and collection of the sanitary sewage and stormwater utility service charges on behalf of the CITY simultaneously with the issuance of the COUNTY'S water bills;

NOW, THEREFORE, in consideration of mutual advantages, it is agreed:

Section 1. The CITY, jointly with the COUNTY, shall designate and cause to be identified from time to time the water service accounts of the Department which thereafter, under the rules and regulations of the CITY, shall be billed for sanitary sewage and/or stormwater utility service charges. The CITY shall designate any adjustments and/or revisions to the amounts being billed, and to the current rate classifications applicable thereto in writing in a format acceptable to the COUNTY. The COUNTY shall act thereon until such designations and classifications are changed in writing by the CITY. The CITY understands and accepts that the COUNTY shall consider the person or persons whose names appear on the COUNTY'S water service account as the persons responsible for the sanitary sewage and stormwater utility service charges at the location involved.

Section 2. The CITY shall deliver to the COUNTY a minimum of thirty (30) calendar days in advance of the effective date its schedule of rates and any revisions of such schedule of rates by furnishing to the Department's Assistant Director - Finance a certified copy of the ordinance or other action of the CITY promulgating said revised schedule of rates. Until the COUNTY is so furnished with a revised schedule, the COUNTY shall act upon the prior delivered schedule. The sanitary sewage and stormwater utility service charges shall be prorated in accordance with the revised schedule of rates. No security deposits shall be collected by the COUNTY nor shall delinquent penalty charges be imposed by the COUNTY on the stormwater utility charges. However, security deposits may be collected by the COUNTY and delinquent penalty charges shall be imposed by the COUNTY on the sanitary sewage service charges.

Section 3. The COUNTY agrees, during the COUNTY'S regular and periodic billing procedures, to cause to be billed and collected from each water customer under said accounts, as an added and designated separate item on the bill, the sanitary sewage and/or stormwater utility service charges, according to the schedule of rates established by the CITY for such customer. This shall be the exclusive method for billing sanitary sewage and stormwater utility service charges by the COUNTY; no separate bills shall be issued, except for those bills that may be generated by the CITY. The CITY authorizes and empowers the COUNTY to render such billings for the CITY'S accounts and on the payment thereof to give receipt and acquittance therefore, either by endorsement of payment upon such billings or by separate receipt. Upon the initial billing by the COUNTY to each user of sanitary sewage and stormwater utility services and at any time during the term of this Agreement, as deemed necessary by the COUNTY or the CITY, the CITY shall at its sole cost and expense and independent of this Agreement, advise such users of the method and arrangement between the CITY and the COUNTY for the billing and collection of said charges by the COUNTY for and on behalf of the CITY as the CITY'S agent. The COUNTY shall not be responsible for the notification of new owners, occupants or tenants that there is a sanitary sewage and stormwater utility service charge. Furthermore, the CITY shall notify its sanitary sewage and stormwater utility users of future rate increases.

Section 4. The COUNTY agrees to observe the same diligence, policy and procedure in the billing, and collection of sanitary sewage and stormwater utility service accounts as is used by the COUNTY in billing and collecting its water service accounts, except that the COUNTY shall not terminate water and/or sewage service for non-payment of stormwater utility service charges, except when account balances exceed an amount to be determined by the Department, nor shall it institute or maintain suits at law for collection of stormwater utility service charges. The COUNTY may provide water and sewage service to customers irrespective of said customer's failure to pay the applicable stormwater utility charge. The COUNTY shall not be responsible for the billing of accounts that are inactive. The COUNTY shall not file any liens on property for the collection of the stormwater utility charges. Legal actions for non-payment of stormwater utility charges shall be the sole responsibility of the CITY.

Section 5. The COUNTY will keep correct and proper books of accounts, showing monthly gross billings of sanitary sewage and stormwater utility service charges. The COUNTY shall provide a spreadsheet (on CD or sent electronically) of both the sanitary sewage and stormwater billing information, that includes, but not limited to, customer's name, account number, account location, account ID, property's folio number, billing frequency, period billed, Equivalent Residential Units (ERUs) and Hundreds of Cubic Feet (CCFs) billed, dollar amount billed and credited, Financial Transaction type, rate code, Service Agreement type, journal date and distribution code for the month remitted along with all appropriate bill segment detail reports, financial transaction reports and billing liability reports as well as any other statements in writing, showing the net amount owed the CITY by the COUNTY for the month covered by such statement. The COUNTY shall provide such documents and the remittance due the CITY within sixty (60) days of the end of each monthly period. Based on such statement, the COUNTY shall make payment to the CITY of the amount due, less the COUNTY'S compensation for the billing and collection of said charges and less any other itemized payments or itemized deductions as hereinafter specifically provided in Sections 6 and 9 of this Agreement. In the event that the Department determines to base all stormwater remittances to customers on a collection basis, rather than a billing basis, and such determination is applied to all stormwater billing agreements, then in such event the CITY agrees that the COUNTY shall remit monthly payments within thirty (30) days of the time actual collection of stormwater utility service charges occur, when the COUNTY's billing system is capable of this method of remittance.

Section 6. Adjustments for sanitary sewage and stormwater utility billings paid by the COUNTY to the CITY but uncollected, shall be made on a regular basis, at least annually or when write-offs occur, as an itemized deduction provided for in Section 5.

Section 7. Upon request, the COUNTY shall send the CITY an electronic spreadsheet on all the water accounts that are within the incorporated area of the CITY. The spreadsheet shall be in a form similar to the "WASA Updated Coral Gables Base Line Spreadsheet" dated August 2, 2007, and shall include the customer's name, account number, account location, account ID, property's folio number, meter number, Service Point status, location type, billing frequency, stormwater code, water bill units, stormwater

units, ERUs, rate code, Service Agreement type, status, water turn on date, wastewater start date, and stormwater start date. Furthermore, upon written request from the CITY, the COUNTY shall make available for inspection or audit by the CITY and its representatives at any reasonable time all of its records pertaining to the COUNTY'S actions under this Agreement as agent for the CITY and shall also furnish to the CITY such information concerning the administration of this Agreement as the CITY may reasonably request, including information as to delinquent sanitary sewage and stormwater utility charges and accounts not currently being billed. Should the CITY, in any audit of the COUNTY'S records, find a discrepancy between the amount of funds remitted to the CITY and the actual billing and collection by the COUNTY, the COUNTY shall within thirty (30) days of receipt of written notification from the CITY remit to the CITY the sums owed.

Section 8. Both the CITY and the COUNTY recognize that in the billing and collection of sanitary sewage and stormwater utility service charges involving thousands of customers, numerous situations arise which require discretion. The CITY agrees with the COUNTY that the COUNTY may use its best judgment in such instances. Specifically, the COUNTY shall have the right to remove or adjust the sanitary sewage and stormwater utility service charges from a customer's bill if the customer provides proof acceptable to the COUNTY that he or she was not the owner, occupant or tenant of the property on the date that the sanitary sewage and stormwater utility service charges were applied. However, the COUNTY shall advise the CITY of all adjustments to CITY accounts as part of the monthly statements provided pursuant to Section 5. Except as otherwise specified in this Section, any adjustments to accounts assessed a sanitary sewage and/or stormwater utility service charge shall be initiated solely by the CITY and provided to the COUNTY in writing.

Section 9. The CITY agrees to pay to the COUNTY and the COUNTY shall receive from the CITY, by means of deduction from payments for monthly billings, compensation determined as follows:

- (A) For the period from the effective date of this Agreement, until this Agreement is modified pursuant to Section 10 hereinafter, a charge in the amount of two dollars (\$2.00) per bill for all accounts charged the CITY'S sanitary sewage charge without stormwater billing; eighty-seven cents (\$0.87) per bill for all accounts charged the CITY'S stormwater utility charge without sanitary sewage billing; and two dollars and forty five cents (\$2.45) per bill for all accounts charged the CITY'S sanitary sewage charge and the CITY'S stormwater utility charges.
- (B) For all costs and expenses incurred and paid by the COUNTY during the preceding month in defending legal actions brought against the COUNTY by any person, firm or corporation, excluding the CITY, involving billing or collection of sanitary sewage and stormwater utility service charges on behalf of the CITY, or involving the COUNTY'S administration of the terms and conditions of this Agreement.

The COUNTY shall notify the CITY in writing of any legal claims filed against the COUNTY pertaining to the COUNTY'S billing and collection of the CITY'S sanitary sewage and

stormwater utility fees within thirty (30) working days of receipt of any claim. The CITY shall defend and indemnify the COUNTY on any such claims. However, the CITY is not required to indemnify the COUNTY on a claim to the extent that such damages are solely due to the negligence of the COUNTY. Provided further that the COUNTY shall defend any claim involving dishonesty or theft by a COUNTY employee.

Section 10. The COUNTY shall provide the CITY with the verifiable results of their previous year "Cost Allocation Model" (Table 5-10) during March of each year. The COUNTY has provided the CITY with a verifiable "Cost of Service Study", which is the basis of the 2007 Cost Allocation Study Model ("Model"). The charges provided for in Section 9 (A) hereinabove shall be increased on October 1, 2011, and each year thereafter, by 5% per year until the charges in Section 9 (A) are equivalent to the cost allocation in the Model. (Example: calculate FY 11 costs and provide to the CITY in March 2012, implement change in October 2012). The COUNTY will provide the CITY with sixty (60) days advance written notice of the proposed revised charges. Thereafter, the charges will be adjusted annually, either upward or downward, based on the results of the Model. In the event the Model indicates an increase greater than 5% per year, the revised charges shall be capped at 5% per year but shall be cumulative in future years. If the CITY finds and notifies the COUNTY of a material error found in the COUNTY'S Model, then the COUNTY agrees to make all the necessary corrections to its Model and to its revised charges retroactive to the date of the increase.

Section 11. All telephone calls and correspondence from customers regarding the stormwater utility shall be the responsibility of the CITY. The COUNTY will use its discretion to determine which calls and correspondence regarding sanitary sewage service charges are the responsibility of the CITY. The COUNTY shall cause the telephone number for the CITY, as provided by the CITY, to be printed on the COUNTY'S regular bill stock.

Section 12. The CITY agrees that the COUNTY shall not be held liable for any damage, delay or other loss which the CITY may experience as a result of the COUNTY'S practices in administering this Agreement, unless such loss arises from negligence of the COUNTY, its employees or agents.

Section 13. It is understood and agreed between the CITY and the COUNTY that the COUNTY'S obligation is limited to billing and collection of sanitary sewage and stormwater utility service charges as specifically provided for in this Agreement.

Section 14. The CITY shall not allow or permit construction or installation of any connections of stormwater mains which allow stormwater to enter the CITY'S sanitary sewage system. The CITY agrees to use its best efforts to detect and lawfully disconnect all stormwater connections to the CITY'S sanitary sewage system within the CITY'S jurisdiction and submit within ninety (90) days of the execution of this Agreement a timetable for the elimination of such stormwater connections which is reasonably acceptable to the COUNTY.

Section 15. This Agreement shall be binding upon the respective successors and assigns of both the CITY and the COUNTY.

Section 16. All references to the CITY under this Agreement that require direction to the COUNTY shall mean the City Manager or his designee. Whenever written notice to the CITY is required it shall be sent by Certified Mail, Return Receipt Requested, to The City of Coral Gables, 405 Biltmore Way, Coral Gables, Florida, 33134 (Attention: City Manager). Whenever written notice to the COUNTY is required it shall be sent by Certified Mail, Return Receipt Requested, to Miami-Dade County, Miami-Dade Water and Sewer Department, 3071 S.W. 38th Avenue, Miami, Florida 33146, (Attention: Assistant Director-Finance).

Section 17. This Agreement shall remain in full force and effect for a period of ten (10) years after its date of execution. This Agreement may be extended at that time by written request from the City Manager to the Department's Director and mutual agreement by the Department, without which it shall terminate. Notwithstanding the above provisions, this Agreement shall terminate and be cancelled without further writings between the CITY and the COUNTY upon either party providing six (6) months notice in writing to the other party so advising the other party.

Notwithstanding the provisions of this Section, should the COUNTY fail to timely bill the CITY'S customers in accordance with the agreed upon billing cycles and rates or fail to remit payment to the CITY in the timeframes specified in Section 5 or 9, the CITY may terminate this Agreement on thirty (30) days written notice to the COUNTY.

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IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

ATTEST: MIAMI-DADE COUNTY

BY: _____
Clerk

BY: _____
County Mayor

ATTEST: CITY OF CORAL GABLES

BY: _____
City Clerk

BY: _____
City Manager

Approved as to form and legal sufficiency:

Assistant County Attorney

Approved as to form and legal sufficiency:

City Attorney